

(h) Vehicles equipped with aftertreatment technologies such as catalysts, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of such components as catalysts and oxygen sensors. If these vehicles are imported or offered for importation without retrofit of the catalyst or other aftertreatment technology, they will be considered not to be within the coverage of the certificate unless included in a catalyst or other aftertreatment technology control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(i) For all light-duty vehicles and light light-duty trucks certified to NLEV standards under §§ 86.1710 through 86.1712, the following provisions apply:

(1) All certificates issued are conditional upon manufacturer compliance with all provisions of §§ 86.1710 through 86.1712 both during and after model year production.

(2) Failure to meet the requirements of § 86.1710(a) through (d) will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the vehicles sold in violation of the fleet average NMOG standard shall not be covered by the certificate.

(3) Failure to comply fully with the prohibition against a manufacturer selling credits that it has not generated or are not available, as specified in § 86.1710(e), will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the vehicles sold in violation of this prohibition shall not be covered by the certificate.

(4) Failure to comply fully with the prohibition against offering for sale Tier 1 vehicles and TLEVs in the Northeast Trading Region, as defined in § 86.1702, after model year 2000 if vehicles with the same test groups are not certified and offered for sale in California in the same model year, as specified in § 86.1711(a), will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the vehicles sold in viola-

tion of this prohibition shall not be covered by the certificate.

(5)(i) The Administrator will issue a National LEV certificate of conformity for 2000 model year vehicles or engines certified to comply with the California TLEV emission standards.

(ii) This certificate of conformity shall be granted after the Administrator has received and reviewed the California Executive Order a manufacturer has received for the same vehicles or engines.

(iii) Vehicles or engines receiving a certificate of conformity under the provisions in this paragraph can only be sold in the states included in the NTR, as defined in § 86.1702, and those states where the sale of California-certified vehicles is otherwise authorized.

(6) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(7) For recall and warranty purposes, vehicles not covered by a certificate because of a violation of these conditions of the certificate will continue to be held to the standards stated in the certificate that would have otherwise applied to the vehicles.

[64 FR 23925, May 4, 1999, as amended at 65 FR 6866, Feb. 10, 2000; 65 FR 59977, Oct. 6, 2000]

**§ 86.1848-10 Compliance with emission standards for the purpose of certification.**

Section 86.1848-10 includes text that specifies requirements that differ from § 86.1848-01. Where a paragraph in § 86.1848-01 is identical and applicable to § 86.1848-10, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1848-01.” Where a corresponding paragraph of § 86.1848-01 is not applicable, this is indicated by the statement “[Reserved]”

(a) through (b) [Reserved]. For guidance see § 86.1848-01.

(c) The following conditions apply to all certificates:

(1) The manufacturer must supply all required information according to the provisions of §§ 86.1843-01 and 86.1844-01.

(2) The manufacturer must comply with all certification and in-use emission standards contained in subparts S and H of this part both during and after model year production.

(3) The manufacturer must comply with all implementation schedules sales percentages as required in § 86.1810 or elsewhere in this part. Failure to meet a required implementation schedule sales percentage will be considered to be a failure to satisfy a condition upon which the certificate was issued and any vehicles or trucks sold in violation of the implementation schedule are not to be covered by the certificate.

(4) For incomplete light-duty trucks and incomplete heavy-duty vehicles, a certificate covers only those new motor vehicles that, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.1844-01.

(5) The manufacturer must meet the in-use testing and reporting requirements contained in §§ 86.1845-01, 86.1846-01, and 86.1847-01, as applicable. Failure to meet the in-use testing or reporting requirements shall be considered a failure to satisfy a condition upon which the certificate was issued. A vehicle or truck is considered to be covered by the certificate only if the manufacturer fulfills this condition upon which the certificate was issued.

(6) Vehicles are covered by a certificate of conformity only if they are in all material respects as described in the manufacturer's application for certification (Part I and Part II).

(7) All certificates of conformity issued are conditional upon compliance with all the provisions of §§ 86.1811 through 86.1816 and §§ 86.1860 through 86.1862 both during and after model year production. The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the terms and conditions upon which each certificate was issued were satisfied. For recall and warranty purposes, vehicles not covered by a certificate of conformity will continue to be held to the standards stated or referenced in

the certificate that otherwise would have applied to the vehicles.

(i) Failure to meet the applicable fleet average standard will be considered to be a failure to satisfy the terms and conditions upon which the certificate was issued and the vehicles sold in violation of the fleet average standard will not be covered by the certificate.

(ii) Failure to comply fully with the prohibition against selling credits that it has not generated or that are not available, as specified in § 86.1861, will be considered a failure to satisfy the terms and conditions upon which the certificate was issued and the vehicles sold in violation of this prohibition will not be covered by the certificate.

(iii) Failure to comply fully with the phase-in requirements of §§ 86.1811 through 86.1816 will be considered a failure to satisfy the terms and conditions upon which the certificate was issued and the vehicles sold that do not comply with the applicable standards, up to the number needed to comply, will not be covered by the certificate.

(8) For LDV/LLDTs and HLDT/MDPVs, all certificates of conformity issued are conditional upon compliance with all provisions of §§ 86.1811-10 and 86.1864-10 both during and after model year production. The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the terms and conditions upon which the certificate(s) was (were) issued were satisfied. For recall and warranty purposes, vehicles not covered by a certificate of conformity will continue to be held to the standards stated or referenced in the certificate that otherwise would have applied to the vehicles.

(i) Failure to meet the fleet average cold temperature NMHC requirements will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the fleet average NMHC standard will not be covered by the certificate(s).

(ii) Failure to comply fully with the prohibition against selling credits that are not generated or that are not available, as specified in § 86.1864-10, will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the

vehicles sold in violation of this prohibition will not be covered by the certificate(s).

(iii) Failure to comply fully with the phase-in requirements of § 86.1811-10 will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold that do not comply with cold temperature NMHC requirements, up to the number needed to comply, will not be covered by the certificate(s).

(9) For 2012 and later model year LDVs, LDTs, and MDPVs, all certificates of conformity issued are conditional upon compliance with all provisions of §§ 86.1818-12 and 86.1865-12 both during and after model year production. The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the terms and conditions upon which the certificate(s) was (were) issued were satisfied. For recall and warranty purposes, vehicles not covered by a certificate of conformity will continue to be held to the standards stated or referenced in the certificate that otherwise would have applied to the vehicles.

(i) Failure to meet the fleet average CO<sub>2</sub> requirements will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the fleet average CO<sub>2</sub> standard will not be covered by the certificate(s). The vehicles sold in violation will be determined according to § 86.1865-12(k)(8).

(ii) Failure to comply fully with the prohibition against selling credits that are not generated or that are not available, as specified in § 86.1865-12, will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of this prohibition will not be covered by the certificate(s).

(iii) For manufacturers using the conditional exemption under § 86.1801(k), failure to fully comply with the fleet production thresholds that determine eligibility for the exemption will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the

stated sales and/or production thresholds will not be covered by the certificate(s).

(iv) For manufacturers that are determined to be operationally independent under § 86.1838(d), failure to report a material change in their status within 60 days as required by § 86.1838(d)(2) will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the operationally independent criteria will not be covered by the certificate(s).

(v) For manufacturers subject to an alternative fleet average greenhouse gas exhaust emission standard approved under § 86.1818(g), failure to comply with the annual sales thresholds that are required to maintain use of those standards, including the thresholds required for new entrants into the U.S. market, will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of stated sales and/or production thresholds will not be covered by the certificate(s).

(d)-(i) [Reserved]. For guidance see § 86.1848-01.

[72 FR 8567, Feb. 26, 2007, as amended at 75 FR 25690, May 7, 2010; 76 FR 39522, July 6, 2011; 77 FR 63163, Oct. 15, 2012; 79 FR 23734, Apr. 28, 2014]

**§ 86.1849-01 Right of entry.**

(a) Any manufacturer who has applied for certification of a new motor vehicle subject to testing under this subpart, or any manufacturer or entity who conducts or causes to be conducted in-use verification or in-use confirmatory testing under this subpart, shall admit or cause to be admitted any EPA Enforcement Officer or any EPA authorized representative during operating hours on presentation of credentials to any of the following:

(1) Any facility where any such certification or in-use verification or in-use confirmatory testing or any procedures or activities connected with such testing are or were performed.

(2) Any facility where any new motor vehicle or test vehicle used for certification, in-use verification or in-use